

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

RSA No. 1224 of 2018 (O & M)

Date of decision: 01.10.2018

Union of India and others

....Appellant(s)

Versus

Kirori Lal

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE G.S.SANDHAWALIA

Present: Mr. P.S. Sidhu, Advocate,
for the appellant.

G.S.SANDHAWALIA, J. (Oral)

Counsel, at the outset, submits that the issue in question pertains to the dismissal order dated 11.10.2007 of the plaintiff who was serving with 27, Assam Rifles and was dismissed from service w.e.f. 11.12.1996. It is accordingly submitted that in view of the provisions of Section 34 of The Armed Forces Tribunal Act, 2007, the proceedings pending before this Court also would be liable to be heard by the Tribunal. Section 34 reads thus:-

“34. Transfer of pending cases.—(1) Every suit, or other proceeding pending before any court including a High Court or other authority immediately before the date of establishment of the Tribunal under this Act, being a suit or proceeding the cause of action whereon it is based, is such that it would have been within the jurisdiction of the Tribunal, if it had arisen after such establishment within the jurisdiction of such Tribunal, stand transferred on that date to such Tribunal.

(2) Where any suit, or other proceeding stands transferred from any court including a High Court or other authority to the Tribunal under sub-section (1),—

(a) the court or other authority shall, as soon as may be, after such transfer, forward the records of such suit, or other proceeding to the Tribunal;

(b) the Tribunal may, on receipt of such records, proceed to deal with such suit, or other proceeding, so far as may be, in the same manner as in the case of an application made under subsection (2) of section 14, from the stage which was reached before such transfer or from any earlier stage or de novo as the Tribunal may deem fit.”

Keeping in view the above since the appeal arises out of the suit for declaration challenging the said order of dismissal by the plaintiff-respondent, the same is transferred to the Armed Forces Tribunal, Chandimandir, Panchkula. The office will keep a photocopy of the record and transmit the originals to the Tribunal, who shall proceed further in accordance with law.

The petition stands disposed of.

01.10.2018
shivani

(G.S. SANDHAWALIA)
JUDGE

Whether reasoned/speaking

Yes/No

Whether reportable

Yes/No